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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/355,732 08/04/99 MARUYAMA

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EXAMINER

NGUYEN, L

ART UNIT

PAPER NUMBER

2683

DATE MAILED:

08/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.

09/355,732

Applicant(s)

MARUYAMA, KAZUHIKO

Examiner

LEE NGUYEN

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said radio terminal" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Dependent claims 2-12 are rejected for the same reason.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Kamm et al. (US 5,457,680).

Regarding claim 13, Kamm discloses a base station B (fig. 1) and a plurality of radio terminals SU in which the base station determines a number of channels to be assigned according to the rate of increase of stored data per unit time (fig. 1K, steps 614-616).

6. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Strawczynski et al. (US 5,239,676).

Regarding claim 15, Strawczynski disclose a base station 11 (fig. 1) and a plurality of radio terminals 14 in which upon the handoff the base station transmits a number of assign channels to the base station to the radio terminal newly communicates (col. 2, lines 26-35).

7. Claim 1, 9 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunn et al. (US 5,625,877).

Regarding claim 1, Dunn discloses a base station 102-103 (fig. 1) and a plurality of radio terminals 101 in which the number of radio channels is changed in response to an amount of communication data interchange (col.12, lines 17-32).

Regarding claim 9, Dunn inherently teaches that the available channels are reduced (see number 132, fig. 2a).

Regarding claim 14, the claim is interpreted and rejected for the same reason as set forth in claim 1 in which the radio terminal determines the number of channels (fig. 2a, numerals 124, 126).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-5, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn et al. in view of Krebs et al. (US 5,448,759).

Regarding claims 2-4, 10, Dunn does not disclose assigning adjacent radio channels, consecutive available channels. Krebs discloses assigning available consecutive time slots or RF channels when the message demands higher transfer rate (col. 5, lines 47-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Krebs to the system of Dunn in order to deliver messages at higher transfer rate.

Regarding claim 5, Dunn also discloses the request from the radio terminal (col. 12, lines 17-21 of Dunn).

Regarding claims 11-12, Dunn as modified by Krebs also discloses TDMA and RF channels (col. 5, line 50 of Krebs).

10. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn et al. in view of Alperovich et al. (US 5,940,763).

Regarding claims 6-8, Dunn does not teach assigning an assigned channel of a second radio terminal to a first radio terminal and reassigning another channel for the second radio terminal. This technique is taught by

Alperovich in col. 6, line 33 through col. 9, line 23. ). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Alperovich to the system of Dunn in order to better manage existing channel resources without terminating an established call connection within a mobile telephone network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is (703)-308-5249. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on (703) 308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

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LEE NGUYEN *lee 8/24/01*  
Primary Examiner  
Art Unit 2683